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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,938	03/28/2001	Ralf Fuchs	20981.010	2209

7,590

09/24/2002

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EXAMINER

LAMB, BRENDA A

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/743,938

Applicant(s)

Fuchs et al

Examiner

LAMB

Group Art Unit

1734

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/5/01, 3/28/01, 4/6/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-5 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

1. Claims 4-5 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiples dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is confusing since it is unclear what elements the device for sizing is comprised of. It is suggested that applicant at line 2 of claim 1 before "at least one sizing compartment (2)" delete ", having" and insert -- comprising --. Claim 1 is confusing since it is unclear whether one is claiming the yarn sheet is pre-wetted with a liquor which is at least diluted with respect to sizing liquor or with water. Claim 1 is confusing since it is unclear how the recitation that the draw-in is simultaneously considered multifunctionally as the pre-moistening means and wetting agent squeezer further limits the claim since at lines 3-8 of claim 1 applicant had already claimed that the draw-in unit is comprised of means for pre-wetting the yarn and wetting agent squeezer. Claim 2 is confusing since it is unclear whether or not one is claiming the second Roller or at least one of the rollers dips the yarn sheet into the second wetting agent. The following term lacks proper antecedent basis "the second roller" at line 6 of claim 2; "the second roller" at line 3 of claim 3; and "the third roller" at line 3 of claim 3.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
6. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by German 4237962.

German '962 teaches the design of a sizing apparatus for sizing a warp yarn sheet which is comprised of the following elements: sizing compartment for contacting the warp yarn sheet with size; squeezer/mangle for squeezing the sized warp yarn sheet; means for pre-wetting the sized warp yarn sheet with water and means for squeezing the pre-wetted warp yarn sheet. The recitation of the simultaneous embodiment of the means for pre-wetting or pre-moistening the yarn sheet and means for squeezing the pre-wetted warp yarn sheet or a wetting agent squeezer in the drawn-in unit does not define applicant's invention over German '962 since Figures 1-2 of German '962 show that above cited elements perform as a unit and in this case elements 24, 26 and 28 perform the function of pre-wetting the yarn sheet and squeezing the pre-wetted yarn

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sheet. With respect to claim 3, absent a clear recitation of how the first and second roller relates to other elements of the apparatus - the pre moistening means and wetting agent squeezer, German '962 shows the second and third roller are arranged with their axes essentially vertically above each other.

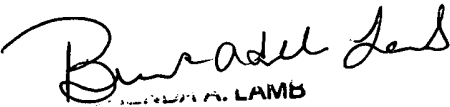
7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over German 4237962 in view of Bisang.

German '962 is applied for the reasons as noted discussed above. German '962 fails to teach the draw-in unit has structure such as set forth in claim 2. However, absent a clear recitation of what the draw-in unit encompasses, it would have been obvious to modify the German '962 by substituting its squeezer means 28 with another squeezer means such as shown by Bisang in his Figures and having structure within the scope of the claim obviously to enable one to more uniformly pre-wet the yarn sheet by passing the yarn sheet through two separate pressure nips.

8. Any inquiry concerning this communication should be directed to Brenda Lamb at telephone number 703-308-2056. The examiner can be normally reached on Monday and Wednesday through Friday with alternate Tuesdays off.

B. Lamb/mn

September 12, 2002


BRENDA A. LAMB
PRIMARY EXAMINER